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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/764,804

01/26/2004

Brandon A. Grooters

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06/04/2008

GATEWAY, INC.

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EXAMINER

IDOWU, OLUGBENGA O

ART UNIT

PAPER NUMBER

2623

MAIL DATE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/764,804	<b>Applicant(s)</b> GROOTERS, BRANDON A.	
	<b>Examiner</b> OLUGBENGA O. IDOWU	<b>Art Unit</b> 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 February 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 2/22/2008 have been fully considered but they are not persuasive.

In response to applicants arguments concerning claims 1 and 9 regarding transitory broadcast event; transitory broadcast events are simply events in the EPG with designated start and end times; transitory being interpreted as an event that last for a short period of time.

In response to applicants arguments concerning claims 8, 16 and 17 regarding scheduled live broadcast events; live events or programs are simply interpreted as programs or events that are not pre cached and are being broadcast to viewers at the time they are being watched.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1 – 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matthews, patent number: US 6 631 523 B1 in view of Knudson, publication number: US 2005/0216936 A1.

As per claims 1, 9 and 17, Matthews teaches an electronic program guide system, comprising:

a first information handling system for obtaining programming information from a program information source and generating a program guide based upon the obtained program information (Headend, col. 5, lines 3 – 5, col. 6, lines 58 – 63, col. 9, lines 43 – 53);

a second information handling system coupled to said first information handling system, for receiving the program guide by causing said first information handling system to transmit the program guide to said second information handling system (STB, col. 5, lines 50 – 64); and

said first information handling system being configured to search a worldwide network for information regarding a transitory broadcast event and to incorporate the transitory event information into the generated program guide prior to transmitting the program guide to said second information handling system (headend including supplemental data, relating to programs in program guide, col. 9, lines 54 – 62);

wherein the program guide has a predetermined number of established program channels (EPG, Fig. 5, col. 8, line 66 – col. 9, lines 11), said first information handling system being configured to add the information regarding the transitory broadcast event as a temporary channel (adding information to a relevant channel, col. 10, lines 12 – 17, col. 9, lines 50 – 58)

Matthews does not teach a system where the additional information is displayed in an additional channel.

In an analogous art, Knudson teaches the channel being created in addition to the predetermined number of established program channels in the program guide (adding an additional channel to the EPG for displaying information [0069])

It would have been obvious to one of ordinary skill in the art to modify Matthews EPG system by including an additional channel for displaying information, as described in Knudson's program guide system for the advantages of reducing the clutter experienced by viewers while using the system.

As per claims 2, 10 and 18, the combination of Matthews and Knudson teach said first and second information handling systems being configured to operate as a client and server system, said first information handling system being a server and said second information handling system being a client (Matthews: Headend, col. 5, lines 3 – 5, col. 6, lines 58 – 63, col. 9, lines 43 – 53, STB, col. 5, lines 50 - 64).

As per claims 3, 11 and 18, the combination of Matthews and Knudson teach the worldwide network being the Internet (Matthews: internet, col. 7, line 67, col. 8, lines 13 - 18).

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As per claims 4, 12 and 20, the combination of Matthews and Knudson teach wherein first information handling system is configured to search said worldwide network according to a list of parameters (Matthews: nodes containing specific information, col. 8, lines 13 - 18).

As per claims 5, 13 and 21, the combination of Matthews and Knudson teach wherein said list of parameters includes a predetermined list of nodes (Matthews: nodes containing information, col. 8, lines 13 - 18).

As per claims 6, 14 and 22, the combination of Matthews and Knudson teach said second information handling system being configured to receive a broadcast of the transitory broadcast event via the worldwide network (receiving video over the internet, col. 7, lines 12- 15).

As per claims 7, 15 and 29, the combination of Matthews and Knudson teach first information handling system being configured to create the temporary channel in the electronic program guide in response to detecting said transitory event information (Matthews: supplemental content being entered based on its presence, col. 10, line 66 – col. 11, line 7).

As per claims 8 and 16, the combination of Matthews and Knudson teach wherein said transitory broadcast event refers to a scheduled live broadcast event (Matthews: TV program, col. 9, lines 54 - 67)

As per claim 23, the combination of Matthews and Knudson teach wherein the program guide is generated with the programming information for a plurality of channels, said transitory event information being incorporated into the generated program guide by adding an augmented temporary channel to the plurality of channels (Matthews: EPG, Fig. 5, col. 8, line 66 – col. 9, lines 11, col. 9, lines 54 – 62, Knudson: augmented channel [0069]).

As per claims 24, 26, 28, 30, 31 and 32, the combination of Matthews and Knudson teach wherein the augmented temporary channel is removed from the program guide upon completion of the transitory broadcast event (supplemental content displayed for the length of TV program, Fig. 5, col. 10, lines 12 - 17).

As per claims 25 and 27, the combination of Matthews and Knudson teach wherein the program guide is generated with the programming information for a plurality of channels (Matthews: EPG, Fig. 5, col. 8, line 66 – col. 9, lines 11, col. 9, lines 54 – 62)

4. Claims 33 – 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matthews, patent number: US 6 631 523 B1 in view of Knudson, publication number: US 2005/0216936 A1 in further view of Schein, patent number 5 801 787.

As per claims 33, 35 and 37, the combination of Matthews and Knudson teach obtaining information on additional programs and displaying the received information with a pre existing program guide.

The combination does not teach wherein said predetermined number of established program channels are associated with a first source of content selected from a group consisting of cable television content, satellite television content, and airwave broadcast television content, the temporary channel being associated with a second source of content different from the first source of content.

In an analogous art, Schein teaches wherein said predetermined number of established program channels are associated with a first source of content selected from a group consisting of cable television content, satellite television content, and airwave broadcast television content, the temporary channel being associated with a second source of content different from the first source of content (Program guide data being received from different sources, col. 2, lines 24 - 43)

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the combination of Matthews and Knudson by allowing information to be received from different sources, as described in Schien's television schedule system, for the advantages of being able to provide more relevant information to users.



As per claims 34, 36 and 38, the combination of Matthews, Knudson and Schein teach wherein the second source of content is the internet (internet, col. 2, line 39)

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Olugbenga O. Idowu whose telephone number is 571 270 1450. The examiner can normally be reached on Monday to Friday, 7am -5pm Est.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pendelton T. Brian can be reached on 571 272 7527. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Olugbenga O Idowu/  
Examiner, Art Unit 2623

/Brian T. Pendleton/

Supervisory Patent Examiner, Art Unit 2623